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Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1994/SR.31
29 August 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-sixth session

SUMMARY RECORD OF THE 31st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 23 August 1994, at 3 p.m.

Chairman: Mrs. ATTAH

later: Mr. BOUTKEVITCH
later: Ms. CHAVEZ

CONTENTS

The new international economic order and the promotion of human rights

(a) The role and equal participation of women in development (continued)

The realization of economic, social and cultural rights (continued)

Prevention of discrimination against women

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GE.94-14165 (E)

The meeting was called to order at 3.15 p.m.

THE NEW INTERNATIONAL ECONOMIC ORDER AND THE PROMOTION OF HUMAN RIGHTS:

(a) THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT (agenda item 7) (continued)

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 8) (continued) (E/CN.4/Sub.2/1994/18 and Corr.1, 19-21, 46 and 47; E/CN.4/Sub.2/1994/NGO/2, 7, 18 and 19)

PREVENTION OF DISCRIMINATION AGAINST WOMEN (agenda item 11)

1. Mr. KIRKYACHARIN (Movement against Racism and for Friendship among Peoples) said that due account should be taken of UNDP's Human Development Report 1994 in the preparatory work for the 1995 World Summit for Social Development to be held at Copenhagen, which, it was hoped, would constitute a turning-point in a world situation characterized by terrible injustices and scandalous inequalities. A number of NGOs, including his own, had jointly drafted a critical document on the subject. The UNDP report showed that unprecedented human progress coexisted with untold human misery and a frightening internationalization of poverty in a world in which one fifth of the population of the developing countries experienced hunger every day, one quarter lacked the resources essential for survival, beginning with drinking water, and one third vegetated in the most extreme poverty, while the income of the richest billion persons was 60 times that of the poorest billion.

2. The report noted that some countries had not reduced their military expenditure at all, that 86 per cent of arms exports were currently effected by the five permanent members of the Security Council, and that arms exports were subsidized. UNDP recommended a modest reduction of 3 per cent in arms sales per year over 10 years - far short of the complete ban his own organization advocated - but efforts should be made to secure its adoption.

3. There were other proposals that might be put forward at Copenhagen, such as a proposal for the obligatory allocation of 20 per cent of official development assistance to increasing human development funds by 20 per cent. There was also the idea of the Nobel Prize winner, James Tobin, that a uniform international tax should be levied on cash transactions in foreign currencies. If fixed at 0.5 per cent, such a tax could bring in US$ 150 billion per year and render possible the establishment of a world fund for human security. Another Nobel Prize winner, Mr. Oscar Arias, had proposed the establishment of a world demilitarization fund for development.

4. It was, however, unlikely that the decision-makers would adopt in 1995 the reasonable measures which they had hitherto rejected, whether in respect of indebtedness, official development assistance or the neoliberal philosophy of IMF and the World Bank, but the role played by NGOs and public opinion could be decisive. It was difficult to see how the goals of full employment, improvement of educational and health levels and the advancement of women could be attained globally when, in the developed countries themselves, areas of poverty of the third-world type were developing. The mechanisms of the world market could not be expected to satisfy, of themselves, the needs of the

poorest, especially when one of IMF's dogmas was the abolition of food subsidies and State subsidies in general. The economic decision-makers would have to realize that the long-term interest of all was more important than the short-term interest of a few.

5. Ms. ADAMS (Sierra Club Legal Defence Fund) said that her organization regretted the slight attention paid to the role of women and to the need for their equal participation in decisions relating to development. Women played, and would continue to play, a major part in preserving and regenerating the environment. In her final report on human rights and the environment (E/CN.4/Sub.2/1994/9), the Special Rapporteur had drawn particular attention to the position of women as a vulnerable group that was the first to suffer from environmental degradation and the last to enjoy the right to a satisfactory environment. The Sub-Commission should therefore give the human rights of women greater prominence in its agenda, perhaps as a separate item.

6. Her organization was also interested in the Sub-Commission's studies on economic, social and cultural rights addressing issues having a direct relationship with environmental rights. The Special Rapporteur on human rights and extreme poverty recognized in his interim report (E/CN.4/Sub.2/1994/19) the close linkages among poverty, the environment, peace, and human development and emphasized the prominent role played by extreme poverty in causing environmental problems, since it forced people to overburden their environment and the basic resources upon which their future survival depended. In his future exploration of the topic, the Special Rapporteur should continue to study the relationship between environmental degradation and extreme poverty.

7. The Special Rapporteur on the relationship between the enjoyment of human rights, in particular economic, social and cultural rights, and income distribution echoed those concerns in his preparatory document (E/CN.4/Sub.2/1994/21) and suggested that there was a need for corrective measures by States to protect vulnerable groups and the environment. He also discussed the unfortunate effects of income disparities, rural poverty, landlessness, lack of participation in political decision-making, and environmental degradation, which often led to conflict over resources. He should expand the discussion of the relationship between environmental human rights and income distribution in his future reports.

8. The Special Rapporteur on the right to adequate housing highlighted in his second progress report (E/CN.4/Sub.2/1994/20) the environmental aspects of that right, and it was gratifying to note that the draft international convention on housing rights, contained in that report, expressly provided that everyone had a right to a home and to a safe and healthy environment. Housing rights also included freedom from forced evictions or resettlement in environmentally unsafe areas. Forced evictions, dealt with by the Special Rapporteur on the human rights dimensions of population transfer in his progress report (E/CN.4/Sub.2/1994/18), were all too frequently caused by large-scale, unsound development projects. Her organization welcomed the attention given to those important topics and encouraged the special rapporteurs to consider, in their future reports, ways of eliminating harmful practices.

9. It was noteworthy that every study on economic, social and cultural rights, presented the environmental dimension as critical. Environmental health and the quality of the environment formed part of the full realization of all other human rights and deserved the Sub-Commission's continuing attention. The Sub-Commission should thus follow up Mrs. Ksentini's work on human rights and the environment by recommending that the Commission should appoint its own special rapporteur on the subject.

10. Ms. BANDETTIMI (World University Service), speaking also on behalf of the International Organization for the Development of Freedom of Education, said that the organizations she represented were concerned about the discrimination against economic, social and cultural rights in the United Nations system, as evidenced by the Sub-Commission's agenda. The work done by the Special Rapporteur on economic, social and cultural rights, should be followed up, since his reports represented a beginning and not an end. Furthermore, those rights should nc longer be treated as a whole, and the Sub-Commission should once again propose to the Commission that special rapporteurs be appointed to study the various economic, social and cultural rights, particularly with a view to establishing indicators to measure their implementation. The organizations she represented thus welcomed the decision to organize expert seminars on each individual right.

11. As a think-tank, the Sub-Commission had a special responsibility with regard to the implementation of economic, social and cultural rights. The gap between North and South was widening but the means of promoting a better implementation of those rights were not being made available. In his Agenda for Development, the Secretary-General deplored the lack of a global strategy but his proposals showed that a new awareness was in the process of being born. The new concepts of development, such as sustainable development, social development and human development, which were appearing, represented a radical change of outlook. A new global project for real development, focused on mankind and its specific needs, was needed which would reaffirm the indissoluble link between democratic development and human rights.

12. If the centre of development was the human being, priority must be given to essential factors such as education, which was a prerequisite for the proper enjoyment of the human condition. The discussions at the current session of the Sub-Commission had clearly shown the crucial role of education in the protection of all human rights. The right to education and educational freedoms had, however, not yet been dealt with in a specific report. The organizations she represented hoped therefore that an appropriate resolution would be adopted and a preparatory document drawn up with a view to improving understanding of the right to education and its implications for other rights. In such a study, special attention should be paid to the content of the right to education and its implementation, the relationship between the effective implementation of the right and public expenditure on education, and the link between freedom of education and the implementation of the right to it, with particular reference to the role of the State and of different social groups in its organization and administration.

13. Mr. AHDEROM (Baha'i International Community) said that the increasing disparity between rich and poor was a major destabilizing influence in the world, producing or exacerbating regional and national conflicts,

environmental degradation, crime and violence, and the use of illicit drugs. As the Secretary-General stated in his Agenda for Development, the effects of deprivation, disease and strife in one part of the globe were felt everywhere. Everyone was affected in some way by the suffering of every other human being, and until that suffering was alleviated, no member of the human family could be fully happy or at ease.

14. The Baha'i approach to the problem of extreme poverty was based primarily on the application of spiritual principles. The economic relationships of a society reflected the values of its members. Therefore, in order to transform those relationships, man's character must be transformed. Until justice was valued over greed, the gap between rich and poor would continue to widen and the dream of sustainable economic growth, peace and prosperity would not materialize. Awareness of the vital role played by spiritual values in solving economic problems would create a new impetus for change. A reordering of economic relationships could make an adequate standard of living universally attainable, with an income distribution that allowed for differences but would eliminate both extreme wealth and extreme poverty. The accumulation of excessive fortunes by a small number of individuals while the great majority could not make ends meet was an intolerable injustice.

15. Both the duty and the right to work were sacred. Idleness and begging had no place in a well-functioning society. In his interim report, the Special Rapporteur on human rights and extreme poverty (E/CN.4/Sub.2/1994/19), indicated that, in general, the very poor were neither associated with the decision-making process nor allowed to exercise responsibilities within the community. Such a situation was unacceptable, given that a fundamental purpose of life was to contribute to the advancement of civilization. The right to work thus took on a spiritual dimension, and everyone had the responsibility to be productive.

16. The belief in the sacredness of work and service profoundly influenced the Baha'i approach to social and economic development. Communities were encouraged to identify their own needs and to initiate their own projects. Those locally initiated projects, many of which focused on alleviating poverty, were based on moral values and encouraged service to the community as a whole.

17. In India, for example, the Vocational Institute for Rural Women offered free literacy and vocational training for underprivileged young women, emphasizing training in locally useful and marketable skills. When the young women in question returned to their villages, they affected their entire community, largely as a result of the moral education they had received, which not only helped them to become positive influences on their families and friends but also made them better business people. The Baha'is believed that fostering grass-roots initiatives was essential for the elimination of poverty. The concept of uplifting and empowering individuals and communities had both moral and educational implications which required a study in depth.

18. Mr. CHANGALA (Service Peace and Justice in Latin America), speaking also on behalf of the Latin American Federation of Associations of Relatives of Disappeared Detainees and the Andean Commission of Jurists, said that there could be no doubt that all human rights were closely interrelated, as was made

clear in paragraph 5 of the Vienna Declaration and Programme of Action. Economic, social and cultural rights were also affirmed in other international and regional instruments, of which the International Covenant on Economic, Social and Cultural Rights was, perhaps, the most important.

19. There was, however, a wide gap between the rights set forth in those texts and real life. As the Special Rapporteur stated in his report to the Sub-Commission (E/CN.4/Sub.2/1992/16), the realization of economic, social and cultural rights was a distant, increasingly less attainable and difficult objective. In that connection, the picture presented by the American continent was extremely disturbing, given the clear and ongoing violations of fundamental human rights there. In general, the percentage of the population living in poverty had increased in direct proportion to the dogmatic application of neo-liberal policies, generally based on "structural adjustment" measures, that sacrificed respect for human life to the free market and unbridled and selfish competition which enriched the few and impoverished the many.

20. In Bolivia, for example, poverty affected over three-quarters of the population, even though the so-called "macroeconomic variables" had begun to improve. In Colombia, 187 trade unionists had been murdered in 1994 so far, a situation which made the realization of trade-union rights impossible. In Ecuador, 80 per cent of the population was living in poverty, 17 per cent were unemployed, and 55 per cent underemployed. In Peru, over 100,000 civil servants had been dismissed and 76 per cent of the population was living in poverty. The new Constitution of 1993 had abolished a series of rights which had previously existed, such as the State protection of needy mothers, children, adolescents and elderly people, and the right to housing. In Venezuela, the poverty rate was 40 per cent of the population, with a considerable fall in employment and wage levels. The situation was similar in the Southern Cone and virtually all of Central America.

21. The Sub-Commission and other bodies must focus their attention on that situation. Arrangements should be devised to monitor whether States were effectively complying with their obligations. In that connection, the Committee on Economic, Social and Cultural Rights had stated that a State party to the International Covenant on Economic, Social and Cultural Rights in which a large number of individuals lacked essential foodstuffs, essential primary health care, basic shelter and housing or basic education was not, prima facie, complying with its obligations under the Covenant and that if the Covenant was to be interpreted in such a way that it established no minimum obligation, there was little justification for its existence. In the same context, the Limburg Principles stated that some obligations under the Covenant required immediate and complete implementation by States parties, such as the prohibition of discrimination set forth in article 2.2. A further development of that principle was essential.

22. Although many of the rights in question, such as the right to strike or the right to trade-union freedom, could perfectly well be implemented without any need for regulation, a State party undertook to comply with all the provisions of the Covenant, including the establishment of clear and accessible legal channels for the exercise of the rights set forth in it. The Committee on Economic, Social and Cultural Rights had also stated that the

measures that ought to be considered appropriate, in addition to legislative measures, included the provision of judicial remedies in respect of those rights which, under the national legal system, could be considered justiciable. That led to the conclusion that effective compliance with the Covenant required the establishment of accessible internal mechanisms to enable citizens to enforce the implementation of its provisions.

23. There was a need for an optional protocol to the Covenant under which individuals and NGOs could report violations, thus bringing the Covenant into line with the International Covenant on Civil and Political Rights. In any case, recognition of the importance of economic, social and cultural rights made little sense unless more effective mechanisms were established for their implementation.

24. Mr. SANDERS (International Lesbian and Gay Association) said that, in his 1992 report (E/CN.4/Sub.2/1992/16), the Special Rapporteur on the realization of economic, social and cultural rights, supported the need for the United Nations to devote increased attention to areas of discriminatory behaviour generally ignored at the international level, including discrimination on the grounds of sexual orientation. Much of the discrimination against lesbian and gay men that occurred in developed States related to matters covered by the International Covenant on Economic, Social and Cultural Rights. The major current issue was the recognition of same-sex partners for the purposes of benefits attached to family relationships, often involving medical insurance, pension benefits, housing rights and spousal compensation in cases of death caused by a work-related accident or an accident in which another party was at fault.

25. With regard to spousal rights to public or rent-controlled housing, the first major court case on same-sex spousal benefits in the United States of America had involved the rights of a gay man to continue to live in a rent-controlled apartment which he had shared with his same-sex partner. The same issue had arisen in a number of jurisdictions in Europe. The latter had begun to recognize same-sex survivor rights to public housing in 1993. In Canada, spousal benefits under both public and private medical insurance plans had been extended to same-sex partners as a result of judicial and administrative decisions.

26. In most States those issues were dealt with on an ad hoc basis, though there had been some attempts to make general provisions equating same-sex relationships with married relationships. Registered partnership laws had been enacted in Denmark, Norway and Sweden. A proposal for a somewhat different law had failed to be adopted in France. Similar proposals were currently being discussed in Germany, the Netherlands, Spain and Canada.

27. The California State Assembly had approved a bill to permit the registration of same-sex and unmarried heterosexual relationships, but it was not expected that the bill would be approved by the senate of that State. Reform had been proposed by the Law Reform Commission in the State of Queensland, Australia, the government of the Australian Capital Territory, and the Ontario Law Reform Commission in Canada. The latter's report had been followed by a bill to recognize same-sex couples in areas of provincial family

law. That bill had been defeated. The Ontario government had already extended all family benefits to the same-sex partners of provincial government employees.

28. Those issues had particular relevance for the International Year of the Family, in which gay and lesbian communities had been urged to involve themselves by the Australian Minister for Family Services. The theme of the 1994 lesbian and gay Mardi Gras in Sydney had been "We are family". A leading lesbian and gay rights organization in Canada had become an "official partner" with the Canada Committee for the International Year of the Family. His Association hoped that the current International Year of the Family had served to draw attention to the very immediate, concrete and real issues of discrimination in social and economic rights faced by lesbian and gay couples.

29. Ms. ACCETTA (International Federation Terre des Hommes) said that the time had come to abandon the illusion that economic growth automatically led to improved social conditions. Mexico, El Salvador and Colombia had enjoyed relatively high rates of growth in recent years, but the disparities in income distribution had increased.

30. The situation in Guatemala continued to be of concern. Nine people out of 10, particularly in the rural areas, lived below the poverty line. The minimum wage was inadequate, unemployment was increasing while the informal sector was flourishing and had become the only source of income for many internally displaced persons.

31. Few countries had paid such a terrible price in terms of poverty as Haiti. The living standard of the majority of Haitians had deteriorated as a consequence of the oil embargo imposed by the international community following the coup d'état. The impact of the oil embargo on the transport system was preventing farmers from harvesting and selling their crops and obtaining necessary supplies. Prices of food, petrol and other basic products had risen sharply. Children were suffering from malnutrition and disease. Infant mortality had increased substantially. In Port-au-Prince the number of street children had multiplied. School attendance had declined sharply. Economic activity was totally disorganized and many small businesses had closed.

32. Her organization urged that a speedy and peaceful settlement be found to end the conflict in Haiti and that the international community should contribute to the reconstruction of the country's economy. Development programmes must be resumed as humanitarian aid, which was barely enabling the population to survive, could give only temporary relief.

33. Mr. Boutkevitch took the Chair.

34. Mr. BENGOA said that economic, social and cultural rights clearly represented a central aspect of the defence of human rights and effective mechanisms must be set up to ensure that they were properly respected. The Sub-Commission should contribute a humanist view to the problems of development and the international economy.

35. International organizations, particularly those in the financial field, were becoming more visible in development activities. Development, as viewed by them, was almost exclusively economic; economic figures were the indicators and favoured the larger countries and enterprises. Small countries were dominated by the great international economic conglomerates and the policies of some were often directed from the offices of large corporations. The human consequences of those policies were ignored. The human perspective must therefore be furnished by United Nations bodies. International standards must be improved so as to limit the application of purely economic criteria and ensure respect for the basic rights of people as enshrined in the international instruments, so that human rights could be enjoyed in a regulated way.

36. Poverty represented the greatest threat to democratic systems where there was a large percentage of the population living in extreme poverty with no realistic prospects of achieving a reasonable standard of living. The current economic systems and the growth policies imposed by international financial bodies left wealth in the hands of the few. Any study by the Sub-Commission concerning economic, social and cultural rights should take into account the diversity of the conditions of poverty. Diversity was not considered in development policies drafted at the international level. Traditional populations, for example, had the right to a balanced development in accordance with their own situation. Development imposed upon them from outside, which implied a forced modernization, tended to sweep away the old structures and could do more harm than good.

37. Another factor to be borne in mind was that development and modernization themselves produced their own poor. Economic growth at any price could be a machinery for producing poverty. Minimum international standards were required to ensure that economic growth did not lead to an increase in the abstract wealth of the country in terms of GNP at the cost of an increase in the number of poor in the country. The statement by the International Association of Jurists on that issue had been very interesting.

38. Of the many factors that must be borne in mind regarding the issue of overcoming poverty, education was of decisive importance. In the past, too little attention had been devoted to education in relation to the economy. Over the past 10 years however, a number of studies had clearly demonstrated the relationship between education and poverty, between education and improving living standards and between education and the distribution of the benefits of development. Investment in education was not, however, immediately reflected in results. It was often necessary to wait for at least a generation. Nevertheless, it represented the key to the full enjoyment of economic, social and cultural rights. The Sub-Commission should therefore endeavour to develop a machinery to encourage States to increase investment in education. Currently too many States were doing the exact opposite and were reducing their educational expenditure.

39. Mr. EIDE said that the Sub-Commission had already done a great deal of work on the issue of economic, social and cultural rights as was evidenced by the studies prepared by Mr. Türk, Mr. Sachar and himself. All that work had been based on the conviction that economic, social and cultural rights were an integral part of the human rights system and were on a level of equality with

civil and political rights. They had, however, been relatively neglected in practice. NGOs had, until recently, paid little attention to economic, social and cultural rights.

40. That situation was changing but problems remained, notably the attitude of States which lacked persistence in implementing their obligations in the field of economic and social rights. The situation was gradually improving however, and the Limburg Principles represented an important contribution to the clarification of such obligations. The studies by the Special Rapporteurs on the rights to food and housing and on extreme poverty had contributed to a further clarification of State obligations. The suggestion by Mr. Sachar regarding a possible convention on the right to housing should be studied further. UNESCO was doing important work in the field of education and the International Labour Organisation was doing similar work on labour issues, but, so far as the rights to housing and food were concerned, there were serious gaps to be filled.

41. It was also necessary to understand the basic obstacles facing implementation of those essential economic and social rights. For example, extreme poverty was associated with many other violations of human rights, resulting as it did in prostitution, child labour and violence against street children. There was also the problem of growing homelessness even in industrialized societies. Moreover a growing indifference by the more prosperous groups in society to the plight of those below the poverty line had emerged, a type of social Darwinism in which the poor were regarded as being responsible for their own plight, alcoholism and drug addiction being seen as the causes of poverty rather than its symptoms.

42. There was a need to give serious thought to a strategy to eliminate poverty. Many interesting initiatives had been taken in various parts of the world, some of which had been surprisingly effective. He had been greatly impressed by the activities of a bank in Bangladesh which was reaching out to the very poorest segment of society, particularly poor women. The approach had worked to such an extent that the model was being exported from Bangladesh to impoverished communities in the developed world, including the United States.

43. In further work in the field of economic, social and cultural rights, emphasis must be placed on the importance of indicators and reliable data on the degree of realization of economic, social and cultural rights in all parts of the world. Mr. Türk had examined that aspect and there had been a seminar on the subject; action seemed, however, to have ground to a halt and there was no mandate for the Centre for Human Rights to pursue the work further. The Sub-Commission should therefore urge the Commission on Human Rights, as a matter of priority, to reinstate the mandate for further work on developing indicators which would facilitate the monitoring of compliance by States with economic, social and cultural rights.

44. It was of fundamental importance to ensure proper distribution of the benefits of development. He had addressed that issue in his preparatory document on income distribution (E/CN.4/Sub.2/1994/21) in which he had also reviewed the current studies and reports on the subject. He had been particularly impressed by UNDP's Human Development Report 1994 which had made

a very constructive contribution regarding what was happening and had given an idea of where to look for solutions. He welcomed the statement by Mr. Bengoa and hoped that he might be prepared to continue the study on income distribution in greater detail.

45. He had suggested in his own preparatory document that issues which should receive further attention included the impact of discrimination on income distribution and the special situation of the rural poor, who were affected in particular by environmental degradation and insecure land tenure. One of the reasons for the prevalence of poverty among indigenous peoples was the lack of recognition of their particular kind of land tenure. In that connection, it was interesting to note that the World Bank was currently arguing against individualized property and in favour of collective property in such situations.

46. Attention should also be given to the growing number of urban poor and to the increasing gap between rich and poor throughout the world as a result of the increasing globalization of trade and investment. That gap again represented a phenomenon of exclusion and human rights violations which required attention. He hoped that the 1995 World Summit for Social Development would be a turning point and that, as a result, greater attention would be paid to economic, social and cultural rights.

47. He welcomed the well-structured and well-researched progress report by Mr. Al-Khasawneh on human rights and population transfer (E/CN.4/Sub.2/1994/18). The main focus of the report had been on the legality of population transfers. The Special Rapporteur had started with those standards which were peremptory norms of jus cogens from which no derogation could be made and, in that context, had emphasized that, with some few exceptions, relocation could take place only with the consent of the population concerned and that any exceptions would have to be justified under special provisions. He might, therefore, wish to spell out in greater detail what exceptions were legitimate, what the scope of those legitimate exceptions should be and the conditions which they would have to meet. He had also pointed out that relocation, even with consent, might be illegal if carried out in such a way as to have a negative impact on the situation of those living in the area to which the people were transferred.

48. The implantation of settlers took two forms. First, it might take place into areas which were not part of the territory of the State concerned but were under occupation or colonized. According to contemporary international law, such implantation must be regarded as illegal. The second case involved implantation into minority or indigenous land within a sovereign State. That issue was a more difficult one in that it also affected freedom of movement and the rights of residents inside a State.

49. Consideration should also be given to the situation of persons who had been moved to other areas without the consent of the population of the recipient areas. Such was the case with the Russian-speaking population in various parts of the former Soviet Union, including the Baltic States where a third generation of Russian speakers continued to live. More recent phenomena were those of the Turkish settlers in Cyprus, the Indonesian settlers in East Timor and the Jewish settlers in Palestinian territory. The situation in

each case was a different one and would require different treatment which should be conditioned by the length of time involved and the legality of the transfer. It was essential that account should be taken also of the human rights of all the people living in an area.

50. Other issues concerned the situation of persons temporarily admitted to a State who later wished to remain there and the question of the granting of citizenship. In his own studies, he had become increasingly concerned that the Sub-Commission should examine the question of the granting of citizenship as a human rights question, since it had profound human rights consequences. He suggested that the Special Rapporteur should look into that issue.

51. Mr. GUISSE said that there had been many reports of violations of economic, social and cultural rights in Africa. In fact, those rights were not respected in Africa at all and it was hard to see how they could be respected. The violations were the more serious in that the international community, particularly the international financial institutions, had played a very negative role by imposing inadequate development models and then imposing structural adjustment programmes to remedy the situation. Those, in their turn, had led to further deprivation and systematic violations of economic and social rights with a consequent destruction of the social fabric and the marginalization of cultural rights.

52. The fact was that the international financial institutions, supported by the developed countries, had not learned to listen to the underdeveloped countries. The populations of those countries were mainly living below the poverty line; poverty in Africa was a permanent feature accompanied by death, disease and lack of education. The time had come for a new and just world order so that all people could live a decent life. The people of Africa must be able to run their own schools, ensure that hospitals functioned properly and establish and multiply their own businesses to open up genuine employment prospects. Africans wanted their children to be like other children in the world and not degenerate into street children.

53. International policies must be developed in order to deal with the realities of the poor of the world so that human beings could become the beneficiaries of development. The time had come to mobilize resources to ensure that the economic, social and cultural rights of the peoples of Africa were respected. For the first time in his life, he had begun to doubt the ability of the international community to help.

54. With reference to the report by Mr. Al-Khasawneh (E/CN.4/Sub.2/1994/18), he considered that some thought should be given to the problem of foreign property developers who came to developing countries to build modern housing and then sold such housing back to the local population at exorbitant prices. Such property developers neglected traditional values and local cultural needs. Those issues should be borne in mind. He hoped that property developers would continue to go to developing countries but would be required to respect what those countries had to offer.

55. Mr. KOTHARI (Habitat International Coalition) said that the international financial institutions acted in a manner effectively outside the purview of rules and regulations imposed upon States by international law, leading in

turn to some highly problematic human rights situations. The Sub-Commission should consider asking the Legal Office of the United Nations or the International Court of Justice to issue an opinion as to the precise legal obligations of those institutions under the relevant articles of the United Nations Charter.

56. The United Nations World Conference on Human Settlements (Habitat II) was scheduled to be held at Istanbul in 1996. He wondered whether Turkey was a suitable host country for a gathering ostensibly devoted to finding solutions for the global housing crisis when the Turkish authorities had been responsible for demolitions and forced evictions in more than 870 Kurdish villages - home to over 50,000 persons - in south-eastern Turkey. Rewarding a country with such a poor housing rights record in that manner would surely send the wrong signal about the seriousness of the international community with regard to human rights.

57. Mr. El-HAIJA (Habitat International Coalition) said he represented the 176 unrecognized Palestinian villages in Israel which were currently threatened with demolition and subjected to wide-scale discrimination in respect of their economic, social and cultural rights. The Palestinians, who represented 18 per cent of the population of Israel, had Israeli nationality but did not enjoy full citizenship rights. The Arabs of Israel were not recognized as a national minority because Israel was a Jewish State.

58. The population of the villages in question, about 60,000 in number, had been legally deprived of the major services to which other citizens were entitled. They lacked adequate housing because the Government refused to issue building licences but did issue demolition orders and carried out forced evictions. The future development of those villages was in jeopardy and they might well become ghettoes. The Sub-Commission should urge the Government to respect national rights, since Israel was a signatory to the International Conventions on Human Rights.

59. Mr. JOINET said the preliminary report on opposition to the impunity of perpetrators of human rights violations (economic, social and cultural rights) (E/CN.4/Sub.2/1994/11), of which he was a co-author, raised some interesting questions about refoulement policies. When refoulement involved significant numbers of people, it became a problem of population transfer. That had a bearing on the current problem between the United States and Cuba, which had gone beyond a question of treatment of individuals.

60. MR. CUNNIAH (International Confederation of Free Trade Unions) said that, on the eve of the World Summit for Social Development, it was clear that only the creation of freely-chosen and productive employment could eliminate poverty and exclusion and restore the dignity of workers. The Summit was a major opportunity for the United Nations to strengthen its activities on behalf of the millions of the world's poor and unemployed. The need for global action was urgent.

61. The situation was desperate in many of the least developed countries, particularly in Africa but also in the shanty towns and rural slums of Latin America and Asia. Massive flows of refugees, the spread of diseases such as AIDS, the global trade in narcotics and the growing calls on the

United Nations to make and keep the peace were all symptoms of the failure fully to realize the economic, social and cultural rights of all peoples. Economic policies which relied solely on balanced budgets, deregulation and financial and trade liberalization were manifestly inadequate.

62. Attempts to solve the economic crisis in developing countries by instituting structural adjustment programmes had failed because those programmes had concentrated solely on supply and demand, excluding the State from any economic role and reducing or suppressing social protection and solidarity. All of those measures had aggravated the situation and created serious imbalances. It was high time that the Bretton Woods institutions accepted the notion that investment promotion and structural adjustment policies must include a social dimension and that trade unions should have the right to participate in the formulation and implementation of those policies.

63. His organization had called for a social clause to be included in the international trade agreements. Such a clause would simply be about the basic human rights that should be respected in every country of the world and would be based on the six widely ratified human rights conventions of the International Labour Organisation. There was no intention of establishing minimum wages across the world, as had been alleged by some Governments. The reason some Governments opposed the social clause was simply that they were in favour of the exploitation of child labour and the use of prison and slave labour for the manufacture of goods. They were also, of course, opposed to freedom of association. It was most revealing that the countries resisting the introduction of the social clause were the very ones in which workers' rights were trampled underfoot.

64. Mr. ROMAZZOTTI (International Movement ATD Fourth World) welcomed the proposal by the Special Rapporteur on human rights and extreme poverty in his interim report (E/CN.4/Sub.2/1994/19) that a seminar be organized on extreme poverty and the denial of human rights, to which people living in extreme poverty and organizations active on their behalf would be invited. The seminar's objective would be twofold: to be an exercise in human rights and partnership and to enable the ties between extreme poverty and human rights to be strengthened.

65. The World Conference on Human Rights, the General Assembly, the Commission on Human Rights and the Sub-Commission had recognized that the poorest of the poor had an invaluable expertise on the question of extreme poverty and human rights which should be utilized to obtain a better understanding of the reality of extreme poverty and its effects on the enjoyment of human rights as a whole, for the purpose of taking the necessary steps to end that phenomenon. His organization's experience in conducting a dialogue with the very poor and supplying a forum in which they could express their views and exchange ideas indicated that representatives of the people concerned would be able to engage in a fruitful partnership with the experts and United Nations bodies at such a seminar.

66. Ms. Chavez took the Chair.

67. Ms. FERRIOL ECHEVARRIA said that the Sub-Commission's extremely cursory consideration of economic, social and cultural rights, which ignored the

interdependence of all human rights and contributed to the existing imbalance in the approach to human rights, was reflected in its agenda. The Sub-Commission should reflect upon that anomalous situation and, at its next session, should consider the items on economic, social and cultural rights and the prevention of discrimination against women much earlier.

68. The economic and social situation of the developing countries was a tragic one, and the gap between North and South was steadily widening, as a result of measures and relations which maintained the neo-colonial dependence of the developing countries. Furthermore, structural adjustment programmes were continuing, without any concern for the social consequences to the most vulnerable segments of their populations.

69. The right to development was one of the basic postulates of the Universal Declaration of Human Rights and one of the most legitimate aspirations of developing countries, which had to confront such problems as high infant and maternal mortality rates, epidemics, unemployment, drug abuse, a lack of education and development of women, natural disasters, immigration and ethnic conflicts.

70. Moreover, unilateral measures were being taken by a developed country against one small developing country to prevent it from having access to essential goods such as food and medicine in an endeavour to sabotage its own freely chosen political and economic system. She was referring to the United States embargo against her own country, Cuba, which was facing problems additional to those of other developing countries as a result of its noble struggle to preserve its independence and sovereignty.

71. Mr. ANWAR (World Federation of Democratic Youth) said that Pakistan had been demanded as a separate homeland for all the Muslims of India. Muslims that were in a minority in Indian provinces had been fully aware that the new Muslim State would comprise the Muslim majority provinces and that they would have to leave their own homes and migrate there, yet they had been active in the movement to establish Pakistan, thereby fully establishing their right to migrate and live in their new homeland. The State of Pakistan was to be based not on cultural, sectarian, linguistic or racial grounds but on the basis of the ideology of religion, namely, Islam.

72. The millions of people who had migrated from India's Muslim minority provinces, bringing with them thousands of years of history, tradition, language, civilization and culture, were termed "Mohajirs" in Pakistan. They had a higher literacy rate than the natives of the four provinces of Pakistan and did not have a tribal or feudal psychology. Over 250,000 of them had been languishing for 23 years in ICRC camps in Bangladesh for having assisted the Pakistani army in its endeavour to maintain the integrity of Pakistan.

73. All that the Mohajirs wanted was to live in peace and in the same honour and dignity as other citizens of Pakistan. Their common interest as a nation - for they constituted a nation - was to regain control of their investments in banking, trade and industries which had been nationalized in 1972 in a deliberate action against the Mohajirs. His organization called on Pakistan to stop its human rights violations against the Mohajirs and to withdraw the troops that had been, since June 1992, engaged in the systematic

killing, torture and unlawful detention of thousands of Mohajirs, in general, and of their leaders and members of their political party, in particular.

74. Mr. HUSSAIN (Observer for Iraq) said that the embargo against his country had impaired Iraqis' enjoyment of all their human rights and of their economic development because of the linkage between the two. Iraq was not allowed to sell its oil and its assets abroad had been frozen and thus could not be used to buy food or medicine. That had had a negative impact on the people of Iraq, had obstructed the development process, and affected the country's production, causing great suffering and hardship, especially to such vulnerable groups as children, women and the elderly, whose morbidity and mortality rates had risen steeply. The reduction of the country's productive capacity had also led to increasing unemployment, particularly among graduates and women.

75. The World Conference on Human Rights had affirmed that food should not be used as a tool for political pressure and the International Covenant on Economic, Social and Cultural Rights also affirmed the right to food and medicine. Those provisions ran counter to the measures that had been taken against Iraq. The Security Council resolutions, which had had a tragic impact, were in violation of the Charter.

76. Mr. KAHN (International Movement Against All Forms of Discrimination and Racism), noting that the protection of economic, social and cultural rights was an essential element in the protection of basic human rights, drew the attention of the Sub-Commission to the violations of the economic, social and cultural rights of the inhabitants of Jammu and Kashmir.

77. Since the creation in 1947 of the States of Pakistan and India, Kashmir had been divided into three parts, two of which had been under the control of Pakistan. Those areas were characterized by poverty, unemployment and poor living conditions, and the Government of Pakistan had done nothing to promote development or improve living conditions. While claiming that Kashmir was disputed territory and that the issue should be resolved under United Nations resolutions, the Pakistan Government obliged the inhabitants of those areas to take an oath of support for the accession of Kashmir to Pakistan before being allowed to work for the Government.

78. The continuing denial of the economic, social and cultural rights of the inhabitants had been addressed by the High Court of Azad, which had observed that the rights which had been enjoyed in the State of Kashmir had been removed by Pakistan with one stroke of the pen. Over 2 million people in the Northern Territories and in Pakistan-occupied Kashmir lacked the most basic necessities of life. It was to be hoped that the Sub-Commission, when debating economic, social and cultural rights, would turn its attention to the region.

79. Ms. SCHREIBER (International Movement Against All Forms of Discrimination and Racism) said that the World Conference on Human Rights had effectively thrown down a challenge to women to assert their rights and to eliminate the discrimination which was still widely practised against them and which often took on violent forms. Faced with that problem, the Commission on Human Rights had adopted resolution 1994/45 of 4 March 1994, which condemned all

forms of violence and discrimination against women. The Commission had also decided to appoint a Special Rapporteur to study the problem of violence against women, a problem which appeared to be most serious in developing countries, partly as a result of continuing economic difficulties and political upheavals.

80. In that context, she commended the conclusions reached at the second Asian and Pacific Ministerial Conference on Women and Development held at Jakarta in June 1994.

81. Mr. MACRIS (Observer for Cyprus) commended the Special Rapporteur's progress report on the human rights dimensions of population transfer (E/CN.4/Sub.2/1994/18) and welcomed the Sub-Commission's decision to continue its study of that very important aspect of human rights violations.

82. With respect to the specific problems created by the implantation of settlers from Turkey in Cyprus, he noted that Turkey, which occupied over 37 per cent of the island's territory, had forcibly uprooted almost all the Greek Cypriot population in the areas under its control. Those who remained suffered severe restrictions on their basic rights and liberties. The indigenous Greek Cypriot population was being gradually replaced by settlers from mainland Turkey, who were being illegally granted citizenship and voting rights as well as property formerly owned by evicted Greek Cypriots. That was all part of an overall policy of Turkification.

83. The Special Rapporteur stressed (paras. 55 and 92 to 95) the right to return of persons who had been forcibly exiled and the fact that compensation could not be a substitute for that right; that position was shared by the Government of Cyprus. The Special Rapporteur also condemned any legitimation of population transfer by agreements on exchanges of population, and that, too, had also always been the position of the Government of Cyprus.

84. A communiqué issued by the Commonwealth Heads of Government in October 1993 had called for the speedy withdrawal of all Turkish forces and settlers, the safe return of refugees to their homes, and the restoration of the human rights of all Cypriots, and had emphasized that nothing should be done to alter the demographic structure of Cyprus. Nevertheless, the influx of illegal Turkish settlers continued unabated. Indeed the policies of the Turkish Government, together with poor living conditions, had also forced 30,000 Turkish Cypriots to emigrate. Turkish settlers currently formed approximately half the population in the occupied areas, where they played a decisive role in political, social and economic life.

85. The Special Rapporteur had rightly drawn attention (para. 81) to the "exotic legal reasoning" to which occupying authorities and their supporters often resorted to justify forcible population transfer; such legal sophistry had become a hallmark of the arguments used by the Turkish authorities to justify their policies in Cyprus.

86. Ms. SRIVASTAVA (Indian Institute for Non-Aligned Studies) said that, despite the important role played by the United Nations in improving the status of women, discrimination was still widespread, with millions of women

worldwide suffering sexual harassment at work while denied effective legal redress. Violence against women also appeared to be on the increase everywhere.

87. In Pakistan, violence was an important element of the general violations of women's rights, and had been highlighted in a recent report by the Human Rights Commission of Pakistan. That report also drew attention to the anomalies in the Constitution which discriminated against women and contravened the Universal Declaration of Human Rights, as well as presenting evidence of the high number of rape victims in Pakistan, half of whom were minors, and of the very high frequency of rape and sexual abuse of female prisoners.

88. In Kashmir, organized crime and fundamentalist terrorism, often sponsored by Pakistan, had contributed to the repression of women, whose plight had been made worse by the predations of foreign mercenaries. Kashmiri women suffered constant emotional trauma, many having been widowed, having lost children or having been made destitute as a result of the violence.

89. There was an urgent need for the international community to take firm action to make those responsible for the violence accountable and to restore the peace and tolerance that had once existed in Kashmir.

90. Ms. PALALA (Observer for the Philippines), making a statement equivalent to the right of reply, referred to comments made in the progress report on the realization of the right to adequate housing (E/CN.4/Sub.2/1994/20). The Philippines had consistently demonstrated its firm commitment to the protection of human rights and was signatory to 20 human rights instruments, most notably the International Covenants on Human Rights. The Philippines had been cited in paragraphs 61 to 64 of the report to illustrate the difficulties faced by countries in enforcing compliance with housing rights legislation. In fact, the Supreme Court ruling in the case in question had clearly shown the commitment of the Philippines to fulfilling its international human rights obligations. The Supreme Court was the only body competent to determine the legality of the demolitions in question, and had acted in complete freedom and independence.

91. A detailed report on the articles of the International Covenant on Economic, Social and Cultural Rights had been prepared, with the collaboration of 20 government agencies and with the full consultation of many local NGOs, and submitted to the Committee on Economic, Social and Cultural Rights. A detailed brief had previously been submitted to the Committee answering every allegation of violations of the right to adequate housing. There could be no doubt that the Philippines took its obligations in that area very seriously.

92. While her Government remained committed to dialogue with the Sub-Commission and with interested NGOs, it regretted the fact that unsubstantiated allegations had been repeated during the current session concerning the imminent eviction of 47,000 families - an allegation to which a response had already been given. Such allegations gave cause to wonder whether the dialogue was a genuine one.

93. Mr. KOMBA-KONO (African Association of Education for Development) said that his organization fully supported the report prepared by the Special Rapporteur on the relationship between the realization of economic, social and cultural rights and income distribution (E/CN.4/Sub.2/1994/21), which showed a considerable grasp of developmental issues. A situation in which half the world's population possessed only 5.6 per cent of the world's income and characterized by the continuing struggle for scarce resources and the use of repressive measures to stifle discontent among the world's poor would inevitably exacerbate confrontation and violence. The Governments of developing countries needed to focus on improving access to resources, education, food, health care and housing and to reducing military expenditure. Donor Governments needed to provide adequate support to the developing countries, especially the poorest African countries, in their development efforts and in mitigating the negative effects of foreign debt and structural adjustment. In that context, he noted that the conditions imposed on African countries by the international financial institutions in return for loans, as well as the repayments themselves, had actually had a disastrous effect on the economies concerned and had hindered development efforts.

94. Given that technical cooperation had failed in its stated aim of eradicating poverty and promoting development, the entire area of technical cooperation within the United Nations called for a review, and his organization proposed that a comprehensive study of the existing and past systems of technical cooperation within the United Nations should be undertaken. That might best be done by a working group, under the auspices of the United Nations Development Programme, which included representatives of the specialized agencies, the international financial institutions, and the Governments of the beneficiary countries. Such a study would ideally lead to a United Nations conference.

95. Ms. KALNIETE (Observer for Latvia), having congratulated the Special Rapporteur on his progress report on the human rights dimensions of population transfer (E/CN.4/Sub.2/1994/18), said that it was of great relevance to the situation in her own country. Latvia had been illegally annexed and occupied by the Soviet Union under the terms of the Secret Protocols to the Ribbentrop-Molotov Pact of 1939, the illegality of which had still not been recognized by the Russian Federation. As a result, the country had experienced large-scale population transfers both in and out of its territory, and was an example of the far-reaching effects on an indigenous population of a long-term policy of implanting settlers from outside.

96. During the post-war years, the total population had risen by 820,000 as a result of the influx of settlers. Of the current population of 2.7 million, only about half were native Latvians, and in the capital city, Riga, the figure was one third. The resettlement programme had been accompanied by a policy of discrimination by the Soviet authorities aimed at preventing Latvians from occupying key posts. In education, opportunities for instruction in Latvian had been systematically reduced.

97. At the same time as settlers were moving in from outside, local residents were leaving in large numbers, thousands of them being forcibly deported to Siberia where many of them had died in forced labour camps. Moreover, after the Second World War, about a quarter of a million people had left Latvia as

refugees. Their right to compensation was inalienable, and needed to be discussed between Latvia and the Russian Federation; her Government took the view that war crimes and the provision of compensation to the victims of such crimes should not be subject to any statute of limitation.

98. Mr. AL-KHASAWNEH, Special Rapporteur on the human rights dimensions of population transfer, having thanked all those who had commented on his progress report (E/CN.4/Sub.2/1994/18), said that he would endeavour to reflect in his final report any conclusions which the Sub-Commission might reach during the current debate.

99. The overall legalistic tone of the report had been imposed by the necessity of examining the relevant legal principles. While it was true that the formulae provided by international law did not always take into account the complexities of the relationships involved in population transfer and were not in themselves entirely adequate when dealing with such situations, solutions nevertheless had to be formulated within the overall framework of international law.

100. He fully agreed that the concept of "force" in population transfer required clarification. There were many types of inducement or pressure which could be brought to bear, and the area was a particularly difficult one in the sense that it touched on the entire concept of causation under law. He would attempt to address the issue in the final report with a view to defining criteria by which the absence or presence of force in a given situation might be determined.

101. With regard to the alleged contradiction between paragraphs 19 and 22, he did not believe that the contradiction actually existed, since genocide could be both an end and a means in population transfer.

102. A suggestion had been put forward that a useful distinction might be made between population transfer within a territory and population transfer across borders or frontiers. While he had originally shared that view, he had concluded, after due reflection, that any transfer which amounted to a crime, even within a territory, concerned the entire international community and the proposed distinction would have little meaning.

103. Another point had been the distinction between crimes and delicts and other acts of population transfer for which compensation should be provided. There were, legally speaking, only two active principles of obligation under international law, namely, responsibility for wrongfulness (either criminal or delictual responsibility) and responsibility for injury. Even where there was no element of wrongfulness, there could still be a duty to provide compensation on the grounds that an injury had been perpetrated.

104. In exceptionally serious cases where population transfer amounted to genocide, the responsibility involved was clearly criminal; that area had not so far been adequately clarified by the International Law Commission. In other lesser cases, there might still be a delictual responsibility for wrongfulness which was of a civil, rather than a criminal, nature.

The meeting rose at 6.05 p.m.